

**NOT FOR PUBLICATION**

**DEC 19 2003**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON  
U.S. COURT OF APPEALS**

ROBERT B. HERMANSON,

Plaintiff - Appellant,

v.

LOCKHEED MARTIN CORPORATION,

Defendant - Appellee.

No. 02-16736

D.C. No. CV-01-00509-ECR

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Edward C. Reed, District Judge, Presiding

Submitted December 5, 2003\*\*  
San Francisco, California

Before: O'SCANNLAIN, HAWKINS, and FISHER, Circuit Judges.

The district court did not abuse its discretion by denying Hermanson's motion for reconsideration. Kona Enters., Inc. v. Estate of Bishop, 229 F.3d 877, 883 (9th

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Cir. 2000). Reconsideration is appropriate if the district court “(1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.” School Dist. No. 1J, Multnomah County, Oregon v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993).

Hermanson asserted two legal arguments in support of his motion for reconsideration. The district court rejected one because it was raised for the first time in the motion for reconsideration, and rejected the other based on the language of the written employment contract. Hermanson does not seem to challenge either of these rulings on appeal, but instead argues a number of new issues, most of which were never presented to the district court in the underlying summary judgment motion, much less in the motion for reconsideration. The district court did not abuse its discretion by failing to consider arguments that were never put to it. To the extent Hermanson does raise issues which were included in his motion for reconsideration, he has not demonstrated that the district court abused its discretion in denying the motion.<sup>1</sup>

AFFIRMED.

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<sup>1</sup> To the extent appellee’s Opposition to Appellant’s Motion to File Late Brief should be construed as a motion to strike portions of appellant’s opening brief, that motion is denied as moot.